



**MILPITAS CITY COUNCIL MEETING AGENDA
FEBRUARY 7, 2006**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

**CONFERENCE WITH LABOR NEGOTIATORS – COLLECTIVE BARGAINING
(Pursuant to California Government Code Section 54957.6)**

City Negotiators: Art Hartinger, Ed Kreisberg, Carmen Valdez

Employee Organizations: Milpitas Police Officers Association (MPOA), International Association of Firefighters (IAFF), Protech

Under Negotiation: Wages, Hours, Benefits, Working Conditions

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV008400

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. City of San Jose, Case No. CV046013, Santa Clara County Superior Court

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Councilmember Polanski)

VI. APPROVAL OF MINUTES (January 17, 2006)

VII. SCHEDULE OF MEETINGS

VIII. PRESENTATIONS

Proclamation:

Christopher Schaller, City of Milpitas Housing & Neighborhood Preservation Specialist (employee), winner of the 2006 Gene Schwab Memorial “Service Above Self” Rotary Club Award

Certificate of Commendation:

Martin McKeefery, Miniature Race Car Driver and winner at Sonoma World Finals Road Race November 2005

IX. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with Asterisks)

XIV. PUBLIC HEARINGS (None)

XV. UNFINISHED BUSINESS (None)

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (January 17, 2006)

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library and East Parking Garage, Project No. 8162 and No. 8161 (Staff Contact: Mark Rogge, 586-3403)

RA6. City of Milpitas Financial Status Report For The Six Months Ended December 31, 2005 (Staff Contact: Emma Karlen, 586-3145)

RA7. Approve FY 05-06 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects (Staff Contact: Emma Karlen, 586-3145)

***RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2005 (Staff Contact: Emma Karlen, 586-3145)**

***RA9. Adopt Resolution Granting Initial Acceptance: Sports Center Underwater Pool Lighting, Project No. 8163 (Staff Contact: Greg Armendariz, 586-3317)**

***RA10. Award Construction Contract: North Main Street Utility Improvements, Project No. 8153 (Staff Contact: Steve Erickson, 586-3414)**

***RA11. Authorize the City Manager to Execute an Agreement for Consultant Services: Swinerton Management & Consulting: N. Main Street Improvements, Project 8165; Land Acquisition and Site Prep, Project 8154, N. Main Street Environmental Impact Report Mitigations, Project 8169; Main Sewer Pump Station, Project 6103 and Other Capital Improvement Projects as Assigned (Staff Contact: Mark Rogge, 586-3403)**

RA12. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 1. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)
- 2. Consider the Addition of One Alternate to Serve on the Milpitas Planning Commission (Contact: Councilmember Livengood, 586-3027)
- 3. City Council Investigation of Unpaid Developer Fees (Contact: Councilmember Giordano, 586-3032)

Economic Development Commission

- 4. Review and Approve the Economic Strategic Action Plan as Recommended by the Economic Development Commission (Staff Contact: Diana Whitecar, 586-3059)

Facilities Naming Subcommittee

- * 5. Approve the Proposed Caesar Chavez Event as Recommended by the Facilities Naming Subcommittee (Staff Contact: Bonnie Greiner, 586-3227)

Parks, Recreation, and Cultural Resources Commission

- * 6. Approve One Group Youth Sports Assistance Fund Grant Request (Staff Contact: Kerrilyn Ely, 586-3231)
- * 7. Review And Approve the Parks, Recreation, and Cultural Resources Commission's 2006 Work Plan (Staff Contact: Bonnie Greiner, 586-3227)

XVIII. NEW BUSINESS

- 8. Approve Submission of Comments to the Federal Communications Commission Regarding Proposed Rulemaking (Staff Contact: Bill Marion, 586-2701)
- * 9. Approve New Capital Improvement Project entitled Traffic Signal Modification at Main Street & Montague Expressway and a Budget Appropriation from Previously Collected Traffic Impact Fees (Staff Contact: Jaime Rodriguez, 586-3335)
- * 10. Approve New Capital Improvement Project and Budget Appropriation for ADA Pedestrian Ramps, Project No. 4233 (Staff Contact: Jaime Rodriguez, 586-3335)

XIX. ORDINANCES

- 11. Waive First Reading Beyond the Title and Introduce Ordinance No. 224.4, regarding Mobile Home Park Rental Review Board (Staff Contact: Peter Spoerl, 586-3040)
- 12. Waive First Reading Beyond the Title and Introduce Ordinance 227.4 Amending Chapter 215 of Title V of The Milpitas Municipal Code Related to Prohibitions on Smoking to Include Public Playgrounds and Sports Facilities (Staff Contact: Greg Armendariz, 586-3317 and Bonnie Greiner, 586-3227)
- * 13. Waive Second Reading Beyond the Title and Adopt Ordinance No. 38.767 Amending Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code (ZT2005-2) (Staff Contact: Kim Duncan, 586-3283)

XX. RESOLUTIONS

- * 14. Adopt Resolution Amending The City Of Milpitas Classification Plan for the Position of Public Works Director (Staff Contact: Carmen Valdez, 586-3086)
- * 15. Adopt Resolution Certifying and Annexing Tract 9699 to Community Facilities District No. 2005-1, Project 3160 (Staff Contact: Mehdi Khaila, 586-3328)

XXI. BIDS AND CONTRACTS

- * 16. Approve the Purchase of a HP DesignJet 1055CM Printer/Plotter for Engineering/Transportation Division (Staff Contact: Chris Schroeder, 586-3161)
- * 17. Approve Subdivision Improvement Agreement, Final Map and Operation and Maintenance Agreement for KB Home, Tract 9699, Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)
- * 18. Approve Budget Appropriation and Authorize Purchase of Water Meter Reading Equipment Devices (Staff Contact: Darryl Wong, 586-3345)
- * 19. Approve the Purchase of Stormwater Pump Units for Berryessa Pump Station Project No. 8138 (Staff Contact: Chris Schroeder, 586-3161)

XXII. CLAIMS AND DEMANDS

- * 20. Approve Payment Requests to Three Vendors (Staff Contact: Chris Schroeder, 586-3161)

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 21, 2006, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

*Citizens Emergency Preparedness Advisory Commission
Economic Development Commission (rep. for Hotel Industry & alternate))*

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

AGENDA REPORTS

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (January 17, 2006)

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library and East Parking Garage, Project No. 8162 and No. 8161 (Staff Contact: Mark Rogge, 586-3403)

Background: The Library Subcommittee met on January 24 and heard a progress report on the Library and Parking Garage. The Library architect, Group 4 Architecture, is underway with the construction documents phase of design. The Parking Garage architect, Chong Partners, is also in the construction documents phase of design. Preliminary site preparation work is also in progress. Staff will provide a brief presentation on the progress of these projects.

Recommendation: Note receipt and file the progress report on the design of the Library and Midtown East Parking Garage.

RA6. City of Milpitas Financial Status Report For The Six Months Ended December 31, 2005 (Staff Contact: Emma Karlen, 586-3145)

Background: As of December 31, 2005, departmental expenditures remain on track at the 95% funding level. Total General Fund expenditures were at 49.4% at mid-year. The 5% savings, approximately \$3.3 million was deducted from the department's budget at the beginning of the fiscal year.

Current year's General Fund revenues are projected to be better than budget due to receipt of one-time revenues. The State repaid approximately \$1.1 million motor vehicle in-lieu tax that was owed to the City from FY 2003-04. In addition, the City recently sold the former City Manager's home and received a return of its contribution of approximately \$661,000 and a net profit based on its equity share of approximately \$168,000.

Property tax revenues was above budget by about 2% while sales tax revenue was under budget by 1%, although both revenues were above what the City received last year. Other revenues such as building permits and charges for services (primarily Planning and Engineering fees) also experienced increases over last year due to activities from several major residential and commercial developments. Using trend analysis and excluding one-time revenues mentioned above, staff projected that total General Fund revenue would be about 3% or \$1.3 million over budget.

However, it should be noted that in the current fiscal year, the General Fund budget gap was handled by \$3.3 million savings from reduced funding of each department's budget to a 95% level, \$1.7 million expected savings from attritions as employees retire or leave the employment of the City, and a \$6.1 million transfer from Redevelopment Agency as an installment payment for the acquisition of City's properties. So far, savings from employee turnovers due to retirements or terminations amounted to about \$700,000, somewhat short of the goal of \$1.7 million. The transfer from Redevelopment Agency (whether it is the full amount of \$6.1 million

or partial amount) is necessary to close the budget gap but it is considered a one-time financial resource.

Staff will continue to monitor the General Fund budget and update the Council on the financial status.

Recommendation: Receive staff report.

RA7. Approve FY 05-06 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects (Staff Contact: Emma Karlen, 586-3145)

Background: To maintain conformity with the City's current budgeting policies that any additional appropriation to a department budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff has included the attached budget change forms and justification memos from the departments for your review and consideration. These modifications are requested due to changing conditions or needs; the amounts originally appropriated in the department or project budget were inadequate.

The overall fiscal impact of these budget modifications will be \$1,105,068 net reduction to the fund balances of various funds. The amount affecting the General Fund will be \$5,068. There are sufficient balances in these funds to cover the additional appropriations. A summary of the various budget transfers and appropriations is also included. Necessary budget adjustments include the following categories:

Additional budget appropriations for operating and capital improvement projects expenses:

1. \$5,068 from the General Fund to Recreation Division to provide funding to the Senior Nutrition program due to increased participation and for sign language interpreters services at a Rainbow Theatre performance.
2. \$300,000 from the Redevelopment Agency Project Fund to City Attorney's operating budget to pay for additional attorneys fees and other litigation costs associated with the City Hall.
3. \$150,000 from Equipment Fund to Public Works Department to cover increased price of fuel.
4. \$480,000 from the Sewer Fund to Capital Project no. 6073 Sewer Deficiency Program for sewer main replacements.
5. \$40,000 from the Water Fund to Capital Project no. 7098 South Milpitas Water Replacement to complete the seismic design of the pipeline.
6. \$60,000 from the Redevelopment Agency Project Fund to Capital Project no. 8106 Storm Water Pump Station Improvements to fund rehabilitation of the roof for Penitencia and Bellevue Storm Drain Pump Stations.
7. \$60,000 from the Redevelopment Agency Project Fund to Capital Project no. 8135 Buildings Improvements to update the fire alarm system in City Hall and other improvements to Fire Stations 1, 2 and 3.
8. \$10,000 from the Redevelopment Agency Project Fund to Capital Project no. 8159 Evidence Freezer to fund upgrades necessary to meet building permits requirements.

Funding requests that do not impact Fund Balances:

9. \$23,709 from the General Fund to Recreation Division to pay for contractual service for Youth Basketball program. The costs for these services have been recovered through enrollment fees.
10. \$67,090 to increase Fire Department overtime and training budget by \$65,400 and \$1,690 respectively. The funding sources for the additional appropriations are from FEMA reimbursement, overtime plan check service reimbursement and deposit holding account.
11. \$78,610 from developer contributions to Capital Project no. 4186 Abel/Calaveras Right Turn Lane to fund additional right of way costs.

12. Re-open Capital Project no. 8134 Senior Center Renovation to pay the outstanding invoices totaling \$190,000. The project has sufficient funding for this request.

Recommendation: Approve the Fiscal Year 2005-06 mid-year budget appropriations as itemized in the budget change form included in the Agency/Council agenda packet.

***RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2005 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2005 is submitted for your review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of December 31, 2005.

As of December 31, 2005, the principal cost and market value of the City's investment portfolio was \$235,900,796.29 and \$233,785,769.31 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended December 31, 2005 was 3.04%. The comparative benchmarks for the same period were 3.56% for LAIF (Local Agency Investment Fund) and 3.90% for the 12-month average yield of the 2 year Treasury Note. Excluding the long-term GNMA securities and Repurchase Investment Agreement, the weighted average maturity of the portfolio was 378 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Recommendation: It is recommended that the City Council/Agency Board note, receipt, and file the investment report for the quarter ended December 31, 2005.

*** RA9. Adopt Resolution Granting Initial Acceptance: Sports Center Underwater Pool Lighting, Project No. 8163 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project replaced the under water pool lights including upgraded electrical panels, transformers and light fixtures at the Sports Center pools in compliance with the California Health Code, Section 3114B. The City Council awarded the project to RAN Electric, Inc. on November 15, 2005. The project has been successfully completed, and staff recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$4,387.60.

Recommendation: Adopt resolution granting initial acceptance of the project subject to the one year warranty period and reduction of the faithful performance bond to \$4,387.60.

***RA10. Award Construction Contract: North Main Street Utility Improvements, Project No. 8153 (Staff Contact: Steve Erickson, 586-3414)**

Background: On September 6, 2005, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project provides for the abandonment and removal of existing utilities and the installation of new utilities, on a portion of N. Main Street, to serve the new library, Midtown-east parking garage, and other Midtown development projects including the Senior Housing and County Health Center. The work includes pipeline installation, trenching, temporary facilities and related work. The Engineer's estimated construction cost is \$3,435,000.

The project was advertised, and bidding was extended to include a necessary extension of the storm main past the development area, all the way to the nearest channel. This additional pipeline routes storm flow through a larger pipe on a more direct path. This realignment discharges the water in a straight downstream path avoiding four culverts and several hundred feet of channel to improve storm water management.

Six sealed bid proposals were opened on January 19, 2006. The bid proposals ranged from \$3,267,704 to 4,217,372, and the lowest responsible bidder is D'Arcy & Hardy, including one bid alternate. Staff is recommending that \$900,000 of developer reimbursement planned for FY06/07, as shown in the current CIP, Project 8165 (N. Main Streetscape) be appropriated to this project at this time.

Recommendation:

1. Approve an appropriation of \$900,000 to Project 8153, North Main Street Utilities from developer reimbursements.
2. Award Construction Contract to D'Arcy & Hardy in the amount of \$3,267,704.

***RA11. Authorize the City Manager to Execute an Agreement for Consultant Services: Swinerton Management & Consulting: N. Main Street Improvements, Project 8165; Land Acquisition and Site Prep, Project 8154, N. Main Street Environmental Impact Report Mitigations, Project 8169; Main Sewer Pump Station, Project 6103 and Other Capital Improvement Projects as Assigned (Staff Contact: Mark Rogge, 586-3403)**

Background: The design of the new library, Midtown East parking garage, and related utility and streetscape improvements, site preparation and environmental measures are underway to redevelop a portion of North Main Street. Mid -Peninsula Housing Coalition, and the County of Santa Clara will also be constructing a new senior housing facility and a County health center with parking garage on North Main across the street from the new library. In order to assist in coordinated completion of these improvements, staff recommends the engagement of the services of a project management consultant as needed to assist staff with management, coordinating, and support of these projects along North Main Street.

Additionally the Main Sewage Pump Station is under design to meet future needs of the development scheduled in the Midtown area. Project Management services to oversee the design and constructions are necessary.

Staff issued a Request For Proposal (RFP) for project management services in conformance with the City's policy on consultant selection. Staff recommends Swinerton Management & Consulting (SMC) for these services. SMC would provide the professional project management services as needed in order to bring these projects to completion. Specific tasks include assistance in design and construction management and coordination, plan and specification review, value engineering, cost estimating and monitoring project budgets, bidding assistance and related work. These services would be provided on a Time and Materials basis not to exceed \$880,000, which is considered reasonable for the effort involved. The current respective CIP project budgets are sufficient to fund the services to be provided.

Recommendation: Authorize the City Manager to execute the agreement with Swinerton Management & Consulting in the amount of \$880,000 subject to approval as to form by the City Attorney.

RA12. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 1. **Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be appointed to Commissions as noted below:

Telecommunications Commission:

Re-appoint M. Idrees Munir to a two-year term that expires January 2008.

Recycling and Source Reduction Advisory Commission:

Appoint Hong Chen to a vacancy as Alternate # 2, to a term that expires October 2006.

Senior Advisory Commission:

Appoint Ed Connor to a two-year term that expires December 2007.

Appoint current Alternate #1 Barbara Ebright to a two-year term that expires December 2007.

Appoint Florentino Menor as Alternate #1, to a two-year term that expires December 2007.

Recommendation: Move to approve the Mayor's recommended Commission appointments.

2. **Consider the Addition of One Alternate to Serve on the Milpitas Planning Commission (Contact: Councilmember Livengood, 586-3027)**

Background: At the City Council meeting of November 30, 2005, one item discussed was the possibility of adding an alternate member to the City's Planning Commission. Councilmember Livengood asks the City Council to support his request that the City Attorney draft appropriate changes to the City's Municipal Code on Planning Commission membership, to allow for this addition.

Recommendation: Direct City Attorney to return to the City Council with an ordinance amending Municipal Code Title I, Chapter 500 regarding Planning Commission membership, to add one alternate member, including term of office and duties.

3. **City Council Investigation of Unpaid Developer Fees (Contact: Councilmember Giordano, 586-3032)**

Councilmember Giordano is requesting the City Council to conduct an investigation about unpaid developer fees.

Economic Development Commission

4. **Review and Approve the Economic Strategic Action Plan as Recommended by the Economic Development Commission (Staff Contact: Diana Whitecar, 586-3059)**

Background: On July 5, 2005 the City Council approved the Milpitas Economic Strategy with added goals and directed the Economic Development Commission to return with an implementation plan. In addition, the creation of the Economic Development Program as part of the FY 2005-06 Budget included several Redevelopment Program goals that are included in the Action Plan.

Economic Development Commission: The Economic Development Commission (EDC) approved the proposed Action Plan (Exhibit A) on January 9, 2006. Members of the Commission will be in attendance at the Council meeting on the proposed Action Plan.

The proposed Action Plan program and activities are separated into Six Month, One to Two Year and Three to Five Year action items. In addition, Implementation Teams and estimated costs are assigned to each activity.

Estimated cost of the proposed Action Plan is approximately \$1.9 million. Costs include additional street level entryway signs and ultimately freeway entry signs, marketing and promotions and long term planning studies to provide leadership in the development of Midtown and the retention of revenue producing commercial land uses. These total costs are more fully explained in Exhibit A.

Goal 1. Improve Milpitas Image as Place to Live, Work and Shop.

1A. This goal is the highest priority of the EDC, but also one of the most costly. Recognizing this, the Commission supports a modified approach as reflected in the proposed Action Plan.

This approach:

- a. Builds on the Council approved Local Street Identity Signs (September 7, 2004) and recommends funding one additional sign as part of the FY 2006-07 Capital Improvement Program (CIP). FY 05-06 CIP has one sign funded at \$20,000. Estimated cost: \$30,000 for the second sign.
- b. Recognizes the value of building a stronger Economic Development Web Page as part of the City's Website. This site would include pertinent data needed by site selectors for larger businesses and also provide information to smaller businesses to assist in navigating the city processes.
- c. Takes advantage of regional marketing opportunities through the Silicon Valley Economic Development Alliance (SVEDA), the economic development alliance associated with Joint Venture Silicon Valley. Estimated Cost: \$6,000.
- d. Recommends creation of a marketing and public relations program to improve visibility of Milpitas as business and industry center. Estimated cost: \$150,000.

Goal 2: Improve Retail Spending Opportunities.

2A. Diversify the mix of retailers within the Midtown area.

- a. Utilize the Milpitas Redevelopment Agency to implement the Midtown Plan, the Transit Study Area Plan and other revitalization plans to create attractive retail areas. Midtown is comprised of smaller and numerous properties that do not easily facilitate redevelopment envisioned in the Midtown Specific Plan. If concentrated development is to occur, it is recommended that the City lead and fund the Precise Plan to help build a coalition of property owners and achieve desired development of a revitalized Milpitas downtown. Estimated cost: \$60,000.
- b. Collaborate with the Chamber of Commerce and Downtown Milpitas Association to promote the City as a place to shop. Implementation includes the creation of a Shop Local program and other retail targeted marketing efforts. Estimated cost: \$25,000.

2B. Expand existing regional shopping opportunities that including the Great Mall.

- a. Utilize the EDC as part of the Transit Study Area analysis to promote policies and programs reflect mixed-use goals that maintain revenue and sustain a high quality of life.
- b. Support the development of a master lease for the Great Mall to facilitate timely retail enhancements.

2C. Increase demand for upscale retail.

- a. Conduct housing retail survey to identify where residents currently shop, which competing retail centers they frequently visit and what they would like to see more of in Milpitas. Estimated cost: \$40,000.
- b. Promote the City's shopping opportunities.

- c. Support district master plans for designated neighborhood and commercial areas to guide their future development. Estimated cost: \$30,000.
 - d. Work with existing commercial center property owners to encourage reinvestment and repositioning where applicable.
- 2D. Enhance the market feasibility of upscale retail by expanding the supply and choice of executive level housing opportunities (Added in response to City Council comments on 7.5.05). Implementation provides for the EDC to work collaboratively with the Planning Department and Planning Commission to evaluate zoning policies that may deter executive housing development. Estimated cost: \$20,000.

Goal 3: Balance housing supply with demand for housing by local workers.

- 3A. Improve the balance of housing opportunities by increasing the percentage of Milpitas workers who live in Milpitas.

Goal 4: Retain and support the success of existing and new businesses.

4A. Establish a city government based clearinghouse of business assistance services available from local, state and federal agencies and other institutions. This can be accomplished through the City's Economic Development Website and through strengthening alliances with NOVA, the North Valley Private Industry Council.

4B. Consider establishment of Business Improvement Districts, HUB and Enterprise Zones to facilitate business development.

4C. Develop business location incentive and retention programs. With R&D, industrial and office vacancies at 40%, the continued commercial re-use of revenue generating property is vulnerable to conversion to non-revenue generating uses, such as assembly or recreation uses. It is recommended that an existing conditions analysis of industrial, R&D and office buildings outside the Transit Study and Midtown Areas be conducted. Concurrent to this analysis, it is recommended that proactive policies limiting conversions to assembly, medical, dental and similar uses in these areas be in place until the analysis is complete and recommendations can be considered by the EDC, Planning Commission and City Council as to the long term use of these critical areas. Estimated cost: \$80,000.

4D. Develop a facility to attract nanotechnology and other emerging industries. Creation of a nanotechnology incubator is a viable use for some of the older vacant r&d or industrial buildings. This is an emerging area of technology and could support "growing" local companies that will be significant fiscal and economic neighbors in the future. Incubators require public financial assistance and if the City wants to consider this actively, will need to dedicate funding to offset rents and other start up costs. Estimated cost: \$200,000/year.

4E. Develop energy saving programs to support "green" commercial development.

4F. Identify and update streamlined planning and permit processes to keep pace with the development needs of new and emerging technologies. This will help Milpitas develop a competitive advantage for future business and development in Milpitas and is a very important goal of the EDC. In concert with this goal, economic development staff is working with the city's development review team (Planning, Building, Engineering, Fire) as part of implementing recommendations of the Council's Roadmap for Service Improvements.

Goal 5: Improve employability of local residents.

- 5A. Consider the establishment of a career center that would help match local workers with local jobs and the establishment of specialized training centers that support local jobs. This can be accomplished by working closely with NOVA on the Silicon Valley Small Business

Development Center (SBDC) and finding ways to make their services more accessible to local residents.

5B. Increase entrepreneurial participation among City residents. The Silicon Valley SBDC is working closely with the City and Chamber to host our first Business Success Seminar in Milpitas, "Doing Business in Milpitas" on Tuesday, February 28, 2006. Those individuals and businesses attending will be able to schedule local counseling sessions with the SBDC and staff is investigating the ability to provide follow up business development classes with SBDC in Milpitas.

5D. Support the efforts of Milpitas Unified School District to provide the highest quality education to its students. (Response to City Council comments on July 5, 2005). Staff is working with Milpitas High School students in their effort to create a summer internship program with local companies focused on bioscience and engineering. The EDC is considering an Education Subcommittee to create measurable opportunities to support the District and to connect with business. Staff will also investigate opportunities to create speaker programs and elementary and middle school mentoring programs working with existing programs like Junior Achievement.

Goal 6: Diversify Milpitas' economic base.

6A. Attract new businesses to Milpitas. It is critical to market and expose Milpitas development opportunities to commercial brokers and investors. Staff is working with the local association of industrial and office properties (NAIOP) to create this awareness. Improving the City's Economic Development Website will also be useful in this endeavor.

6B. Increase the supply of Class A professional office space. This will be critical in the development in Midtown. In the future focused marketing to business professionals for office space will expose professionals to these new areas.

Goal 7: Develop Economic Strategy Performance Measures. (Response to City Council comments on July 5, 2005)

With each Action Plan program or activity, the EDC is committed to developing measures to gauge effectiveness. The first steps will be to create and meet deadlines and develop baseline data where appropriate.

Goal 8: Provide Administrative Services to the Redevelopment Agency. (City Budget Goal)

8A. Protect the Redevelopment Agency (RDA) from State legislative initiatives to diminish the authority and economic capacity of redevelopment. Staff follows redevelopment reform legislation and will report to the City Manager and City Council on critical issues.

8B. Participate in economic development activities of outside organizations (such as Joint Venture Silicon Valley, North Valley Private Industry Council and the Manufacturing Group). Staff is participating in these organizations to make sure that Milpitas is considered in their marketing efforts and to make sure the local financial investment is being used to further our local economic development efforts.

8C. Lead in the preparation of the Redevelopment Agency Five Year Implementation Plan update. This critical document will provide the City Council with a format to consider how to use redevelopment funds to further economic investment in the community. It will be presented to the Council in the first quarter of 2006.

The Economic Strategic Action Plan addresses a variety of issues critical to the continued economic health of Milpitas. Its implementation will involve collaboration internally with other City departments, with the local business community, with the local and South Bay development

community and with community leaders. Periodic updates to the City Council will keep the Council apprised of challenges and successes met in this implementation.

Recommendation: Approval of the proposed Economic Strategic Action Plan.

Facilities Naming Subcommittee

- * **5. Approve the Proposed Caesar Chavez Event as Recommended by the Facilities Naming Subcommittee (Staff Contact: Bonnie Greiner, 586-3227)**

Background: As discussed at the December 15, 2005, Facilities Naming Subcommittee, staff was directed to provide activities to honor Cesar Chavez in the City of Milpitas. Discussion included a dedication of the Milpitas Community Garden to Cesar Chavez with a small ceremony, and work with the Milpitas Unified School district to offer an essay and/or drawing contest with the school on educating the youth about Caesar Chavez. Below please find the details for the proposed activities to honor Cesar Chavez with the respective request.

Essay Contest

An essay/art contest in the local schools (grades 4-12) would begin the scheduled activities. Students would write a 500-word essay with a maximum of 2 pages (8.5" X 11") double-spaced with a 12-point font (Arial or Times) or illustrate a photo about what Cesar Chavez means to them and their community. Staff will work with the Milpitas Unified School District (MUSD) administration offices to assist with this portion of the activities by receiving all essays and selecting a winner. The winner of the contest would be invited read their essay and or share their art work at the ceremony and also be recognized at a City Council meeting and be presented with a certificate. All participants will receive a participation ribbon. Promotions of the essay contest will begin in February with flyers distributed to the schools with a deadline of submission by Friday, March 17, 2006.

Dedication Ceremony

As proposed, the Milpitas Community Garden will be renamed to Cesar Chavez Community Garden to acknowledge Chavez's impact to the community. The dedication ceremony would include brief remarks from City Dignitaries, an essay reading and a unveiling of the new park sign followed by light refreshments. Cesar Chavez Day is celebrated on March 31; however, our ceremony is proposed to take place on Saturday, April 1, 2006, at 9:00am. This date adjustment will allow us to better accommodate the citizens' work and school schedules, and also allow for after the ceremony, a park clean up with the assistance of the Milpitas Volunteer Partners program to take place at Weller Elementary School, Augustine Park and the Community Garden. Once approved, staff will work with the MUSD and the School Board of Directors for the approval of the renaming and posting of a new sign to the Community Garden since the land is MUSD property. Possible wording for the sign would be: "Welcome to the Cesar Chavez Community Garden, a partnership with the Milpitas Unified School District and the City of Milpitas."

Budget

Included below is a budget breakdown indicating supplies and services that would be required to conduct the event:

Item	Budget
Refreshments	\$200
Marketing (invites, flyers, ad in the Milpitas Post, etc)	\$800
Supplies (certificates, ribbons, etc)	\$1,000
	\$3,000
New Park Sign	Consistent with traditional City park signs
TOTAL	\$ 5,000

Recommendation: Approve proposed Caesar Chavez Event as recommended by the Facilities Naming Subcommittee and approve funds from the City Council community promotion budget not to exceed \$5,000.

Parks, Recreation, and Cultural Resources Commission

- * **6. Approve One Group Youth Sports Assistance Fund Grant Request (Staff Contact: Kerrilyn Ely, 586-3231)**

Background: On September 20, 2005 the Milpitas City Council approved and appropriated \$8,000.00 for the Youth Sports Assistance Fund for the 2005-2006-budget year. Included in the Council packet for review and consideration is one (1) Group Youth Sports grant application:

One (1) Group Youth Sports Assistance Fund Application was received from **Milpitas Tidal Waves Swim Team, requesting \$1,000.00** to offset costs of purchasing the following items: EZ UP canopy tent, First Aid Travel Kit, Team Banner, Lap Counters, Stopwatches and pull buoys for use during the 2005-06 swimming season.

The applicant meets the eligibility for the grant process. Staff has reviewed the items requested and has found that the requested items meet the application guidelines, under the section, "Acceptable Funding consideration will be given, page 2 item #3 states; "To one time activities or capital equipment purchases designed to address a need or problem which organization cannot routinely finance".

There is currently a **balance of \$1,000.00** in the 2005-06 Youth Sports Assistance Fund.

The Parks, Recreation and Cultural Resources Commission (PRCRC) reviewed the applications on January 9, 2006 and recommended that the grant application be forwarded to council for approval.

Recommendation: Approve one (1) Group grant request for \$1,000.00 to Milpitas Tidal Waves Swim Team using all allocated Youth Sports Grant funds for the remainder of the fiscal year.

- * **7. Review And Approve the Parks, Recreation, and Cultural Resources Commission's 2006 Work Plan (Staff Contact: Bonnie Greiner, 586-3227)**

Background: Pursuant to the Park, Recreation and Cultural Resources Commission (PRCRC) Bylaws, the PRCRC Commission serves as an advisory body to the City Council on matters pertaining to the Parks and Recreation issues. On January 9, 2006 The Commission reviewed and approved their 2006 goals and action plan. The following proposed work plan encompasses the Commission's vision, values, goals and action plan for 2006.

Short-term Goals

1. Joint meeting with BTAC- discuss Park Metro park plans, pedestrian over cross
2. Obtain additional Youth Sports and other grants money opportunities by soliciting, local Businesses and private donations to Aid Athletes, possibility in working with (Friends of Recreation) if established.
3. Potential Sandalwood Park Improvements, by working with Parks Department

Long-term Goals

1. Parks and Trails- Update – Requested to receive Project Completion Plan Update from Parks Department.
2. In conjunction with Parks Department, implement and complete a Parks Master Plan
3. Explore methods of financing Park Maintenance and Redevelopment.
4. Add Historical Marker and/or History of Park and Name in City Parks
5. Sandalwood Park Improvements

Ongoing Tasks

1. Youth Sports Grant Fund Requests
2. Child Care Grant Fund Requests
3. City Park Tour (June meeting - every other year) - Walk trail (name trail and add date 2006) instead of park tour.
4. City Historical and Cultural Site Tour (June meeting – every other year)
5. Park Maintenance Schedule – in working with the Parks Department, help create maintenance schedule for City park as a preventative measure to ensure park quality, preservation of historic buildings.
6. Park Rehabilitation – provide feedback and input to the Parks Department
7. Continue with PRCRC Video Sub Committee to promote and highlight Milpitas Parks.

Recommendation: Approve the 2006 PRCRC Commission's Work Plan

XVIII. NEW BUSINESS

8. Approve Submission of Comments to the Federal Communications Commission Regarding Proposed Rulemaking (Staff Contact: Bill Marion, 586-2701)

Background: The City has been advised of a Notice of Proposed Rulemaking (NPRM) pending at the Federal Communications Commission (FCC) which relates to cable franchising. Staff and the City Attorney have reviewed the NPRM and correspondence from the National Association of Telecommunications Officers and Advisors (NATOA) encouraging cities to provide comments. The NPRM directly challenges local government authority over cable franchising by requesting public comment on several tentative conclusions that would impose federal oversight of local franchising authority.

Due to advances in technology, local telephone companies now have the capability to provide cable television like services over their existing phone lines. Using these capabilities, telephone corporations are rolling out products that provide fiber-optic based, integrated data, voice and video services. However, each telephone corporation is approaching the roll out of the services differently. For example, Verizon is complying with the Cable Act and seeking to obtain cable franchises from cities before rolling out its new service. On the other hand, SBC/AT&T is maintaining the position that its new offerings are not subject to cable franchising and refusing to enter into cable franchise agreements with Local Franchising Authorities (LFA). Several cities in California have been approached regarding construction of facilities for these services. In addition, SBC/AT&T and Verizon are seeking regulatory relief in Congress to allow them to quickly roll out new video services without local interference.

The FCC released a NPRM on November 18, 2005 relating to the local franchising process. (MB Docket No. 05-311.) The NPRM sets forth several tentative conclusions, and requests public comment on the conclusions. The basic premise of the NPRM implies that LFAs are violating the Cable Communications Policy Act of 1984 (“Cable Act”) by acting as unreasonable barriers to entry. “As potential new entrants seek to enter the video distribution marketplace, there have been indications that in many areas the current operation of the local franchising process is serving as an unreasonable barrier to entry.” (NPRM, page 4.)

The purpose of the NPRM is to “determine whether, in awarding franchises, LFAs are carrying out legitimate policy objectives allowed by the Act or are hindering the federal communications policy objectives of increased competition in the delivery of video programming and accelerated broadband deployment and if that is the case, whether and how [the FCC] can remedy the problem.” (NPRM, page 7.)

The NPRM goes on to make several tentative conclusions, including: the FCC may preempt any LFA law or regulation that causes unreasonable refusal to award a competitive franchise; the Cable Act empowers the FCC to ensure LFAs do not unreasonably interfere with the ability of any potential new entrant to provide video programming; and the Cable Act authorizes the FCC to take actions to ensure that the local franchising process does not undermine the policy goal of greater cable competition. (NPRM, pages 9-10.)

In fact, the only concession the NPRM makes to LFAs relates to the universal service provision of the Cable Act. (47 U.S.C. 541(a)(3).) The NPRM tentatively concludes “that it is not unreasonable for a LFA, in awarding a franchise, to ‘assure that access to cable service is not denied to any group of potential residential cable subscribers because the income of the residents of the local area in which such group resides...’” (NPRM, page 11.)

In the NPRM, the FCC requests comments on several issues related to franchising authority. The National Association of Telecommunications Officers and Advisers (NATOA) has developed a set of recommended comments for local governments to adapt and file with the FCC. In general, local agencies are encouraged to argue that:

Local franchising promotes fair and even handed treatment of local cable operators
Local oversight of cable operation in the public interest is sufficient and there is no need to duplicate at the federal level
Local franchising allows each community a voice in cable system implementation and features to meet local needs.

The comments conclude by requesting that the FCC “do nothing to interfere with local government authority over franchising.” The loss of authority to franchise cable and video services will have a great impact on the City and its ability to manage these services in the best interest of the public. Staff believes the City should join NATOA and other local franchising authorities in opposing the FCC’s proposed rulemaking

Recommendation: Authorize the Mayor to sign a filing with the Federal Communications Commission opposing changes in local franchising rules.

- * 9. **Approve New Capital Improvement Project entitled Traffic Signal Modification at Main Street & Montague Expressway and a Budget Appropriation from Previously Collected Traffic Impact Fees (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: There are currently several residential development projects occurring on Abel Street and Main Street between Great Mall Parkway and Montague Expressway. These projects will place additional demand on the capacity of Main Street including the already congested traffic signal at Main Street-Old Oakland Road & Montague Expressway as they are implemented. In efforts to be proactive to the future growth, staff is recommending a new Capital Improvement Project to modify the traffic signal at Main Street-Old Oakland Road & Montague

Expressway to provide for a second southbound left-turn lane from Main St onto eastbound Montague Expressway. Previously paid traffic impact fees for improvements to Montague Expressway will be used for the improvements.

This project has already been coordinated with the County of Santa Clara – Roads & Airports Department who is responsible for the operations & maintenance of Montague Expressway including the traffic signal at Main Street-Old Oakland Road and with the City of San Jose. The design of the project will be completed this fiscal year and improvements constructed over the summer.

Recommendation: Approve a New Capital Improvement Project entitled Traffic Signal Modification at Main Street & Montague Expressway and a budget appropriation of \$100,000 from Previously Collected Traffic Impact Fees.

*** 10. Approve New Capital Improvement Project and Budget Appropriation for ADA Pedestrian Ramps, Project No. 4233 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The City submitted a grant proposal to the Metropolitan Transportation Commission (MTC) for the allocation of fiscal year 2004-05 Transportation Development Act (TDA) – Article 3 funding on April 15, 2005 for funds to construct ADA compliant pedestrian ramps around schools. The City Council approved Resolution No. 7520 on May 3, 2005 showing support of the project. The grant in the amount of \$47,112 was approved by MTC on December 15, 2005.

New pedestrian ramps were proposed with new truncated dome landings around Spangler Elementary, Randall Elementary School, Curtner Elementary School, and Zanker Elementary School. Staff is recommending a new Capital Improvement Project, in order to implement this project, which will be reimbursed by the grant. This grant will provide approximately 20-25 ramps at the above location.

Recommendation: Approve New Capital Improvement Project and Budget Appropriation of \$47,112 for ADA Pedestrian Ramps at Schools, Project 4233.

XIX. ORDINANCES

11. Waive First Reading Beyond the Title and Introduce Ordinance No. 224.4, regarding Mobile Home Park Rental Review Board (Staff Contact: Peter Spoerl, 586-3040)

Background: As members of the City Council may recall, in October of 2005, the City Attorney's office, along with several members of City staff in the City Manager's office and the Building Division, received a request for mediation of non-rental disputes from Ms. Joan Paras, a resident of the Pioneer Mobile Park. In her letter, Ms. Paras informed the City of a disagreement between herself and the park's owner, Donald Hall, regarding the allocation of costs for the relocation of an electrical meter on the property. Since that request, our office has received additional requests for mediation of issues related to property maintenance at the park from other park residents, in addition to a similar request from Mr. Hall following reports of an unsuccessful attempt to meet informally with some of the parties to resolve the disputes.

The Milpitas Municipal Code provides a specific process for resolution of non-rental disputes at Milpitas mobile home parks. Under the relevant ordinance, an aggrieved owner may present a written objection to the park owner regarding maintenance, capital improvements, or any other concern related to the physical or living condition of the park. Section 25.03 of Title III requires that prior to a formal petition to the Board, the aggrieved mobile home owner must participate in an informal meeting with the owner to see if the dispute may be resolved. The complainant has satisfied these requirements, and remains dissatisfied with the outcome of this meeting. The same process was followed without resolution in the other petitions as well. Because the disputes relate to capital improvements on the property, they are subject to mediation.

Following receipt of Ms. Paras' formal request for mediation in October, and subsequent requests from Ted Isquierdo, Anna Canerday and Norman Azevedo, our office worked in cooperation with City Clerk Mary Lavelle to try to schedule a meeting of the Mobile Home Park Rental Review Board with the hope of consolidating all of the mediation requests. The Mobile Home Park Rental Review Board is a 3-member advisory body appointed by the City Council. The Board does not meet regularly, but only on an as-needed basis. Currently, the Board is comprised of three members: Milan Dobro, initially appointed in 1993 and subsequently appointed to successor terms; Sandeep Chahal, appointed in May of 2004, and Florence Romito, appointed in May of 2005. City Clerk Lavelle has made repeated requests, by telephone, email and certified mail, to reach Mr. Chahal in an attempt to schedule a meeting of the Board. To this date, the City has been unable to reach Mr. Chahal, who is apparently out of town and unreachable. Because Ms. Romito has acted as an active advocate for Ms. Paras and her position with respect to the dispute, she has a conflict of interest with respect to the mediation request, and thus cannot take action on this one item before the Board. Without Mr. Chahal, the Board cannot reach a quorum and act to appoint a mediator.

Thus, the Council may wish to consider adoption of an Ordinance in order to allow for the appointment of an alternate Board member in order to allow the Board to meet and appoint a mediator in response to the numerous pending requests.

The Ordinance would amend Chapter 30, Section 2.11 of Title II of the Milpitas Municipal Code to provide that the Mobile Home Park Rental Review Board shall henceforth comprise a three member body with one alternate. Following the introduction of the Ordinance, the City Clerk, pursuant to the requirements of Government Code section 54974, would post a vacancy notice and call for applications to fill the alternate spot. Following the procedure set forth in Appendix F of the City Council Handbook, the Mayor would then review all applications received and recommend an individual for appointment to the position. Assuming official adoption of the Ordinance amendment at its next regularly scheduled meeting of February 21st, the City Council could then consider and confirm the Mayor's recommendation following official adoption of the ordinance, which appointment would become effective thirty days following the meeting. The City Clerk could then schedule a special meeting to have the Board appoint a mediator.

Recommendation: Waive first reading beyond the title, and introduce Ordinance No. 224.4 amending Chapter 30 of Title III of the Milpitas Municipal Code to allow for the appointment of an alternate member to the Mobile Home Park Rental Review Board.

12. Waive First Reading Beyond the Title and Introduce Ordinance 227.4 Amending Chapter 215 of Title V of The Milpitas Municipal Code Related to Prohibitions on Smoking to Include Public Playgrounds And Sports Facilities (Staff Contact: Greg Armendariz, 586-3317 and Bonnie Greiner, 586-3227)

Background: The current regulations for smoking are found in Chapter 215 Regulating Smoking, which incorporates California Labor Code Section 6404.5 prohibiting smoking at entrances to all city-owned and operated buildings, and in city vehicles. On November 1, 2005, the City Council directed staff to enhance the smoking prohibition to include playgrounds, athletic fields and spectator stands with the incorporation of California Health and Safety Code, Section 104495 Restriction of Smoking at Public Playgrounds.

Proposed Changes:

Staff has modified the existing Chapter 215 to include definitions for Smoking, Public facility, Playground and Sport facility. Smoking is defined as lighting or carrying a lighted cigarette of any kind, lighted pipe or lighted cigar. Public facility is defined as any building owned or leased by the City of Milpitas, including city vehicles. Playground means any lot, park or recreational area specifically designed to be used by children that has play equipment installed, or any similar facility located on public property. Sport facility means any athletic field, tennis court, basketball

court, swimming pool or similar place where members of the public assemble to engage in physical exercise, including spectator seating areas and concession stands.

Smoking will be prohibited twenty-five feet (25') from any Public facility, Playground and Sport facility. No smoking signs will be placed at the entrance to Playgrounds and Sports facilities. Exceptions are on-stage smoking as part of a stage production in a Public facility, smoking on a public sidewalk within 25 feet of a Public facility, Playground or Sport facility, any public area that does not restrict smoking, and private property.

The Inspection section has been modified to include any Public facility, Playground and Sport facility and to reference the California Health and Safety Code, Section 104495 and the Penalty section has been modified to include the violation of Section 1.25 as punishable by a fine of two hundred and fifty dollars (\$250) for each violation of the section. The City Manager has the authority to enforce the provisions of the Chapter.

It is proposed that the installation of required signage at public playgrounds and sports facilities will cost approximately \$3,000, which is available in the Park Maintenance operations budget, and that the ordinance would take effect on March 22, 2006.

Recommendation: Waive first reading beyond the title, and introduce an ordinance amending Chapter 215 of Title V to the Milpitas Municipal Code related to prohibitions on smoking to include public playgrounds and sports facilities.

- * **13. Waive Second Reading Beyond the Title and Adopt Ordinance No. 38.767 Amending Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code (ZT2005-2) (Staff Contact: Kim Duncan, 586-3283)**

Background: On September 20, 2005, the City Council adopted Negative Declaration No. EA2005-3 and introduced Ordinance 38.767, which originally contained twenty-six (26) modifications and clarifications to the Zoning Ordinance text. Subsequently, on January 17, 2006, a public hearing was conducted in which the City Council adopted General Plan Amendment No. GP2005-8 for a revised definition of "Acre, Gross" in the General Plan Glossary and introduced Ordinance No. 38.767 for revisions of 3 of the previously reviewed text amendments: revised definition of "Gross Acre", usable open space requirements in Multi-Family High Density (R3, R4) zoning districts, and revision of language pertaining to the Density Bonus ordinance reflecting new State Density Bonus law. It should be noted that the minimum open space dimensions in the attached draft Ordinance reflect 4 ½ feet per City Council's direction at the September 20, 2005 meeting.

Recommendation:

1. Waive second reading.
2. Adopt Ordinance No. 38.767 (ZT2005-2)

XX. RESOLUTIONS

- * **14. Adopt Resolution Amending The City Of Milpitas Classification Plan for the Position of Public Works Director (Staff Contact: Carmen Valdez, 586-3086)**

Background: Periodically, amendments to the Classification Plan are required to account for organizational changes, equity adjustments to salary ranges and other related changes or conditions.

The following proposed changes are the result of organizational changes within the Public Works Department and the Engineering Division. In order to accurately reflect the new duties and responsibilities of the Public Works Director, and for better efficiency we are requesting Council approval to combine the Public Works Department and the Engineering Division into one Department. If approved, the Engineering Division will become an additional division of the

Public Works Department. It is anticipated that the consolidation of the two offices will result in a savings of approximately \$100,000 per year.

Staff is also requesting that the salary range of the Public Works Director be adjusted to accurately reflect the expanded assignment. Staff has analyzed other internal City classifications and has surveyed other public agencies that are similar in size to determine the range of salaries that would be comparable to the expanded duties and responsibilities of the Public Works Director with the City of Milpitas. The result of our analysis indicated that for Cities with positions that had similar responsibilities to the new Public Works Director job description the average salary is \$172,622. The current salary for the Milpitas Public Works Director is \$143,395. A revised Job Description for the Public Works Director position has been included in your City Council packet for your information.

Recommendation: Adopt a resolution amending the City of Milpitas Classification Plan to amend the salary range for the Public Works Director for the City of Milpitas to an annual salary range of \$142,016 - \$172,622.

- * 15. **Adopt Resolution Certifying and Annexing Tract 9699 to Community Facilities District No. 2005-1, Project 3160 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: KB Home (the owner of Tract 9699) is required to annex the subject property into the Community Facilities District 2005-1 (CFD 205-1) as a condition of the tentative map approved by the Council on January 18, 2005. Resolution No.7521 adopted by City Council on May 17, 2005 forming the CFD 2005-1, authorizes the City to annex properties to CFD 2005-1, which will be assessed only for eligible public services, without further public hearing or formal election upon receipt of written consent from the owners.

KB Home has given consent and approval that this property be annexed to CFD 2005-1. KB Home has also agreed that such consent and approval constitutes election to annex to CFD 2005-1 and approval of the authorization for the levy of the special tax on the subject properties.

Recommendation: Adopt resolution certifying and annexing properties to Community Facilities District No. 2005-1.

XXI. BIDS AND CONTRACTS

- * 16. **Approve the Purchase of a HP DesignJet 1055CM Printer/Plotter for Engineering/Transportation Division (Staff Contact: Chris Schroeder, 586-3161)**

Background: On October 4, 2005, Council approved the budget appropriation for a reimbursable grant from the Office of Traffic Safety. Part of that grant included the purchase of an HP DesignJet 1055CM printer/plotter with extra memory. Staff was able to locate the equipment through the Western States Contracting Alliance (WSCA). WSCA was formed in October 1993 by the state purchasing directors from fifteen western states to facilitate cooperative multi-State contracting in order to achieve cost-effective and efficient procurement. Surah, Inc. is a local representative for WSCA. Staff recommends that we purchase through the WSCA contract as authorized under Section I-2-5.06, Purchase Through a Governmental Entity.

Recommendation: Approve the purchase of a HP DesignJet 1055CM printer/plotter and extra memory from Surah, Inc. for the not to exceed amount of \$9,916.21 including shipping and tax.

- * 17. **Approve Subdivision Improvement Agreement, Final Map and Operation and Maintenance Agreement for KB Home, Tract 9699, Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: This 315-unit multi-family residential development will be served by public utilities located within public streets and proposed easements. The final map is ready for

approval. Excerpts of the final map are included with the Council packet and a complete set of the final map is available for review in the office of the City Engineer.

Recommendation:

1. Approve the final map.
2. Authorize the City Manager to execute the secured Subdivision Improvement Agreement and Operation and Maintenance Agreement, subject to the approval of the City Attorney as to form.

*** 18. Approve Budget Appropriation and Authorize Purchase of Water Meter Reading Equipment Devices (Staff Contact: Darryl Wong, 586-3345)**

Background: Due to site constraints, the Parc Place development included installation of water meters on fire service lines that are located within vaults in parking lots, which are not readily accessible to the City meter readers. Staff, upon review of various options, has determined that technology for wireless transmission of water usage is available and would be appropriate for remote meter readings. The technology consists of wireless transmission of meter readings to a hand-held device for field recording by the City meter readers, for subsequent downloading into the City utility billing computer system. In addition, since the development is within the area of the City's wireless network, staff has determined that as an option, the transmitted data may be communicated across the wireless network for direct downloading into the City's utility billing system. The developer has agreed to purchase all of the equipment that is necessary for data transmission, data collection, software to convert the data into the utility billing system, the purchase of one hand-held field recording device for receiving data, and training for a total cost of \$24,167. The new wireless meter reading system will not only provide the necessary meter readings, but will also provide the City with a pilot system that may be used for deployment of additional wireless meter reading systems for future new developments.

In addition to the hardware and software being paid for by the developer, staff also proposes that the City purchase three additional hand-held field recording devices that would replace the City's 1994 hand-held field recording devices, and provide the ability to obtain meter reads wirelessly. These devices will be used throughout the city. The cost of the devices is \$15,426. There are sufficient funds for the purchase of the additional hand held devices in the equipment replacement fund.

Recommendation: Approve the purchase of three hand-held field-recording devices from National Meter and Automation, for \$15,426. Approve an appropriation of \$15,426 from the equipment replacement fund for the purchase of the hand-held devices and approve an appropriation of \$24,167 from the developer contribution to CP 8107 Finance System for the purchase of communication equipment as described above.

*** 19. Approve the Purchase of Stormwater Pump Units for Berryessa Pump Station Project No. 8138 (Staff Contact: Chris Schroeder, 586-3161)**

Background: On June 7, 2005, the City Council authorized the rejection of all bids for the purchase of Stormwater pump units for Project No. 8138 due to insufficient bidders and directed staff to negotiate with suppliers in conformance with Public Contracts Code Section 20166. The equipment package includes a 50 HP jockey pump, three 185 HP diesel engines, three right angle drives, three 20,000 GPM vertical pumps and minor accessories to make the system operational. Negotiations have been successfully completed and Cascade Pump Company has been selected by staff to provide the equipment package.

Recommendation: Approve the purchase of the equipment package for the Berryessa Pump Station from Cascade Pump Company for the not to exceed amount of \$ 392,000 including optional accessories, shipping and tax.

(There are sufficient funds available in Capital Project No. 8138 for the purchase of this equipment package.)

XXII. CLAIMS AND DEMANDS

*** 20. Approve Payment Requests to Three Vendors (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$46,204.50 to Koffler Electrical for rebuilding the 30 horsepower Jockey pump at the McCarthy Storm Water Pump Station. The pump was significantly damaged by debris, resulting in the need to replace the bearings and all three shafts. The pump handles all low flows entering the pump station. The work was performed as an emergency under section I-2-5.04 of the Municipal Code, Emergency Authority of Purchasing Agent.

(Funds are available from the Utility Maintenance operating budget for this purchase.)

2. \$15,453.17 to Peterson Power Systems for two additional items of work, which were performed as part of the emergency overhaul of one of the diesel engines at the Gibraltar Pump Station. It was determined after start up that the radiator had past its useful life and needed to be replaced at a total cost of \$13,804.13. Also, after the engine had been disassembled it was determined that the rocker assembly was badly worn and needed to be replaced at a cost of \$1,649.04. The additional work was required to bring the engine back online. The work was performed as an emergency under section I-2-5.04 of the Municipal Code, Emergency Authority of Purchasing Agent.

(Funds are available from the Gibraltar Reservoir and Pump Station Improvement Project CIP No. 7101 for this purchase.)

3. \$1,263.36 to Folger Graphics for tax and freight on the "Reusable News" newsletters. On January 4, 2006, staff went out to bid to print and mail 14,500 recycling informational newsletters. Council approved the purchase on January 3, 2006 for \$8,520.69. However, at the time staff was not aware that the bids did not include tax and freight, in addition to the fact that there were art changes required after the first proof. Even with the changes, Folger Graphics' bid is still the lowest.

(Sufficient funding has been allocated in the Engineering Department operating budget for this purchase.)

Recommendation: Approve the three payment requests.

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 21, 2006, AT 7:00 P.M.**